HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION (REVIEW) NO. 4 OF 2005
IN WRIT PETITION NO. 21 OF 2005

Commissioner of Customs
& Central Excise, Goa,
having office at Custom House,
Mormugao, Goa. ....Applicant/petitioner

Versus

M/s Akash Stone Industries
Ltd., having office at Santa Cruz,
Airport Side Marble Market,
W.E. Highway,
Dr. Rajendraprasad Nagar,
Vile Parle (E),
Mumbai. ... Respondent.

Mr. C.A. Ferreira, Assistant Solicitor General for the applicant.

Mr. H.D. Naik, for the respondent.

CORAM : A. P. LAVANDE &
N. A. BRITTO, JJ.

DATE : 25th April, 2005.

ORAL ORDER (Per Lavande, J.)

The petition was filed by the respondent seeking refund of the amount paid by the petitioner towards fine and penalty. By Order dated 7th March, 2005, we ordered refund of the amount of Rs.15.36 lakhs, within a period of four weeks. We also directed payment of interest on the said amount at the rate of 6% per annum from the date

of payment by the petitioner until refund.

2. Mr. Ferreira, learned Assistant Solicitor General appearing on behalf of the applicant, who was the respondent in the said Writ Petition, seeks review of the Order dated 7th March, 2005, on the ground that there is an error of law on the face of the record inasmuch as the interest could not have been awarded from the date of payment of fine and penalty. According to the learned counsel, in terms of Section 27-A of the Customs Act, the interest could not have been awarded from the date of payment but could have been awarded from the date of CEGAT Order, i.e. 17th May, 2002. Mr. Naik, learned counsel appearing for the respondent, does not dispute this position. We find merit in the submission of learned Assistant Solicitor General.

3. Accordingly, the review application is partly allowed. The applicant is ordered to pay interest at the rate of 6% per annum from the date of CEGAT Order, i.e. 17th May, 2002 and not from the date of payment. The Order dated 7th March, 2005 passed in Writ Petition No.21 of 2005 stands modified accordingly.

A. P. LAVANDE, J.

N. A. BRITTO, J.

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